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*Stan Miller*  
AGENT/ATTORNEY FOR APPLICANT

*October 5, 2001*  
DATE

Attorney Docket No. 0943

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lowe et al. Date: October 5, 2001  
Serial No.: 09/435,054 Group Art Unit: 1638  
Filed: November 8, 1999 Examiner: Ibrahim, M.  
For: Transcriptional Activator Nucleic Acids, Polypeptides and Methods of Use Thereof

Assistant Commissioner for Patents  
Washington, D.C. 20231

**RESPONSE TO RESTRICTION REQUIREMENT**

This is in response to the Restriction Requirement issued September 6, 2001.

Applicants elect with traverse the claims of Group I, Claims 1-12, 15, 33 and 48-49, drawn to an isolated nucleic acid, expression cassette, transgenic plant/plant cell/seed for continued prosecution herein. Applicants also elect the species sequences of Group A. Applicants reserve the right to prosecute the non-elected claims in one or more continuing applications

Under MPEP 803 the Examiner is requested to examine claims to independent or distinct inventions if the examination does not place an undue burden on the Examiner. It is submitted that nucleic acids, the polypeptides they encode, and methods that employ at least one of the nucleic acids introduced

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into a plant, are sufficiently closely related so as to be examined in one application.

It is therefore submitted that groups I, II, and III are sufficiently closely related to be combined without undue burden.

The improper dependency of Claim 43 is noted. Since Claim 43 has not been elected for continued prosecution in the application correction will be addressed in a subsequent continuing application.

Respectfully submitted,

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